

HOUSE BILL 1840

By Lamberth

AN ACT to amend Tennessee Code Annotated, Title 3,
Chapter 17, relative to charitable gaming.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 3-17-103(a)(1)(A), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(A) A 501(c)(3) organization seeking to operate an annual event for the benefit of that organization located in this state shall submit an annual event application to the secretary by January 31 each year for the annual event period beginning July 1 of that calendar year and ending June 30 of the subsequent calendar year.

SECTION 2. Tennessee Code Annotated, Section 3-17-103(a)(1)(B), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(B) For purposes of the submission deadline, the postmark date on the annual event application shall be considered the date of submission.

SECTION 3. Tennessee Code Annotated, Section 3-17-103(a)(3)(B)(i), is amended by deleting the language “§ 3-17-104(a)(2)(A)” and by substituting instead the language “§ 3-17-104(e)(1)”; and by deleting the language “§ 3-17-104(a)(16)” and by substituting instead the language “§ 3-17-104(e)(4)”.

SECTION 4. Tennessee Code Annotated, Section 3-17-103(a)(6)(A), is amended by deleting the language “§ 3-17-104(a)(19)” wherever it appears and substituting instead the language “§ 3-17-104(e)(6)”.

SECTION 5. Tennessee Code Annotated, Section 3-17-103(a)(6)(B), is amended by deleting the language “§ 3-17-104(a)(19)” and by substituting instead the language “§ 3-17-104(e)(6)”.

SECTION 6. Tennessee Code Annotated, Section 3-17-103(a), is amended by adding the following language as a new subsection:

(7) A 501(c)(3) organization seeking authorization to conduct an annual event pursuant to this chapter shall be in compliance with the registration requirements for charitable organizations set forth in title 48, chapter 101, part 5, or be exempt from annual registration pursuant to § 48-101-502.

SECTION 7. Tennessee Code Annotated, Section 3-17-103(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) The secretary shall review all annual event applications timely submitted and shall transmit an omnibus list of qualifying applicants to the clerk of the senate and the clerk of the house of representatives in an electronic format, as is required by the respective clerks, on or before March 1 of each year. The omnibus list shall include, at a minimum, the name of the 501(c)(3) organization, the name of the event, the type of lottery game, the event date for the event and the location or locations of the event. The omnibus list shall list 501(c)(3) organizations alphabetically by county in which the annual event is proposed to be operated.

SECTION 8. Tennessee Code Annotated, Section 3-17-103(d)(1)(A), is amended by deleting the language “provided, that for the annual event period beginning July 1, 2011, and ending June 30, 2012, an authorized annual event shall be held within forty-five (45) calendar days of the event date listed in the annual event application; provided further,” and substituting instead the language “provided,”.

SECTION 9. Tennessee Code Annotated, Section 3-17-103(d)(3), is amended by deleting the language “pursuant to § 3-17-104(a)(14)(B).” and by substituting instead the following language:

pursuant to § 3-17-104(e)(5). Tickets, shares, chances or other similar records shall be sold only at a single price.

SECTION 10. Tennessee Code Annotated, Section 3-17-103(f), is amended by deleting the subsection in its entirety.

SECTION 11. Tennessee Code Annotated, Section 3-17-104(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) All annual event applications shall be submitted to the secretary from July 1 to January 31 for the annual event period beginning July 1 following the close of the application period and ending June 30 of the subsequent calendar year.

SECTION 12. Tennessee Code Annotated, Section 3-17-104(c), is amended by deleting the subsection in its entirety and by substituting instead the following:

(c)

(1) An application fee shall be paid at the time of submission of an annual event application. Annual event applications shall not be accepted by the secretary unless accompanied by the appropriate application fee.

(2) The secretary shall collect a reasonable fee for annual event applications. The secretary may establish a fee schedule for annual event applications based on the gross revenue of the annual event. No fee shall exceed seven hundred dollars (\$700). Funds collected under this chapter shall be used by the secretary and the Tennessee bureau of investigation to defray the cost of administering this chapter, including, but not limited to, the cost of investigations pursuant to § 3-17-113.

(3) Annual event application fees are nonrefundable.

SECTION 13. Tennessee Code Annotated, Section 3-17-104(e), is amended by deleting the subsection in its entirety and by substituting instead the following:

(e) A 501(c)(3) organization filing an annual event application shall submit, on a form prescribed by the secretary, the following information:

(1) The name, mailing address and physical address of the 501(c)(3) organization. If the organization has multiple chapters or affiliates in Tennessee operating under the same tax exemption, the organization shall submit the physical addresses and mailing addresses of such multiple locations; provided that, for the purposes of this chapter, a post office box, or similar address at a mail or package delivery service, shall not be considered a physical address. If the principal office of the 501(c)(3) is outside Tennessee, the organization shall submit the physical address and mailing address of such principal location;

(2) The name of the event;

(3) The date of the event;

(4) The location of the event;

(5) A description of the type of lottery game to be conducted. Such description shall include the estimated number of tickets, shares, chances or other similar records to be offered and the actual dollar amount at which a ticket, share, chance or other similar record shall be sold;

(6) A description of the charitable use of the proceeds from the event;

(7) The name and telephone number of a contact person for the event;

(8) A copy of the organization's determination letter from the internal revenue service showing that the organization is exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(3) of the Internal Revenue Code;

(9)

(A) A copy of the 501(c)(3) organization's last annual report, Form 990, filed with the internal revenue service and any attached schedules

for the organization's tax year ending immediately preceding the annual event application;

(B) If the organization has not filed an annual report with the internal revenue service for the organization's tax year ending immediately preceding the annual event application, the organization shall submit an affidavit from the 501(c)(3) organization's chair, president or administrative officer affirming that the organization has not filed an annual report and shall begin to file annual reports as required by the provisions of this chapter; provided, that the organization may submit such affidavit only one (1) time;

(C) An organization shall not be required to comply with this subdivision (e)(9) if it is not required to file a Form 990 with the internal revenue service; provided, that the organization submits proof of such determination by the internal revenue service;

(10) The names and addresses of the officers, directors, trustees, and the principal salaried executive staff officer of the 501(c)(3) organization;

(11) A sworn statement that the organization has been in continuous and active existence as a 501(c)(3) organization located in Tennessee as defined by § 3-17-102(1);

(12) A sworn statement that no officer, director, trustee, or the principal salaried executive staff officer of the 501(c)(3) organization has been convicted of a violation of § 39-14-103, § 39-14-104, § 39-14-105, § 39-16-702, § 39-16-703, title 39, chapter 17, parts 5 or 6, or a similar offense in another jurisdiction; and

(13) A sworn statement that the board of the organization has approved the filing of an annual event application and intends to operate an annual event if authorized by the general assembly.

SECTION 14. Tennessee Code Annotated, Section 3-17-105(b)(2), is amended by deleting the language “no later than twelve o'clock (12:00) noon central daylight time (CDT) on May 10, 2004, and no later than twelve o'clock (12:00) noon central standard time (CST) on the first day in February in any subsequent year” and substituting instead the language “no later than 12:00 noon central standard time (CST) on the fifteenth day of February each year”.

SECTION 15. Tennessee Code Annotated, Section 3-17-105(d)(2)(A), is amended by deleting the language “or (f)”.

SECTION 16. Tennessee Code Annotated, Section 3-17-105(d)(2)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B) For annual event applications submitted by twelve o'clock (12:00) noon central standard time (CST) prior to January 31 each year, the secretary shall notify any organization that would not otherwise be included on the omnibus list of the reason, or reasons, why such organization would not be included. Such notification shall be made by February 15 each year. Any such organization may submit an amended annual event application to the secretary no later than twelve o'clock (12:00) noon central standard time on the last day of February. Any such annual event shall be included on the omnibus list if the amended annual event application complies with this chapter.

SECTION 17. Tennessee Code Annotated, Section 3-17-106(a), is amended by designating the current language as subdivision (1) and by adding the following language as subdivision (2):

(2) An organization that fails to file its financial accounting in accordance with this section may be assessed a late fee of twenty-five dollars (\$25.00) for each month, or

portion thereof, that the accounting is late. The late filing fee shall accompany every late-filed financial accounting. If an organization fails to timely file the required financial accounting in any two (2) of three (3) consecutive annual event periods, the organization may, in the discretion of the secretary, be disqualified from filing future annual event applications, which decision is subject to the review and appeal procedures provided in § 3-17-105(g) and (h).

SECTION 18. Tennessee Code Annotated, Section 3-17-106(b), is amended by deleting the language “thirty thousand dollars (\$30,000)” and by substituting instead the language “fifty thousand dollars (\$50,000)”.

SECTION 19. Tennessee Code Annotated, Section 3-17-106(b)(3), is amended by deleting the language “§ 3-17-104(a)(19)” and by substituting instead the language “§ 3-17-104(e)(6)”.

SECTION 20. Tennessee Code Annotated, Section 3-17-106(c)(2), is amended by deleting the language “§ 3-17-104(a)(19)” and by substituting instead the language “§ 3-17-104(e)(6)”.

SECTION 21. Tennessee Code Annotated, Section 3-17-106(e), is amended by deleting the language “thirty thousand dollars (\$30,000)” and by substituting instead the language “fifty thousand dollars (\$50,000)”.

SECTION 22. Tennessee Code Annotated, Section 3-17-106(f)(1)(B), is amended by deleting the language “§ 3-17-104(a)(19)” and by substituting instead the language “§ 3-17-104(e)(6)”.

SECTION 23. Tennessee Code Annotated, Section 3-17-106(g)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) Notwithstanding any other provision of this section to the contrary, for authorized annual events whose gross revenue does not actually exceed five thousand

dollars (\$5,000), the organization shall file a financial accounting, on a form prescribed by the secretary, including the following:

- (A) The gross amount of money received from the annual event;
- (B) The amount expended for prizes and administrative costs; and
- (C) The amount of money disbursed, or to be disbursed, to the charitable programs or purposes of the 501(c)(3) organization.

SECTION 24. Tennessee Code Annotated, Section 3-17-106(g)(2)(A), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(A) If the secretary determines that the gross revenue reported in subdivision (g)(1) exceeds five thousand dollars (\$5,000), the 501(c)(3) organization shall remit to the secretary the full application fee as required pursuant to § 3-17-104(c)(2), less the reduced fee remitted with the annual event application. Any payment to be remitted pursuant to this subdivision (g)(2)(A) shall be submitted contemporaneously with an updated financial accounting report prepared in accordance with the financial accounting requirements of subsections (b) – (e).

SECTION 25. Tennessee Code Annotated, Section 3-17-110(c)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3) Notwithstanding subdivisions (c)(1) and (2), for annual events conducted by a 501(c)(3) organization that does not intend to raise gross revenue from the annual event exceeding five thousand dollars (\$5,000), the total value of all prizes awarded per annual event shall not exceed twenty-five thousand dollars (\$25,000).

SECTION 26. This act shall not be construed as rescinding authorization, prohibiting or otherwise altering the requirements for annual events authorized by the One Hundred Eighth General Assembly for the annual event period beginning July 1, 2013, and ending June 30, 2014, and the annual event period beginning July 1, 2014, and ending June 30, 2015.

SECTION 27. This act shall take effect July 1, 2014, the public welfare requiring it, and shall apply to annual event applications submitted, and annual events authorized, on and after such date.